

WILMERHALE

November 15, 2022

Seth P. Waxman

By ECF

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The Honorable Allison D. Burroughs  
U.S. District Court for the District of Massachusetts  
John Joseph Moakley Courthouse  
1 Courthouse Way  
Boston, MA 02210

Re: *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, No. 14-cv-14176 (D. Mass.)

Dear Judge Burroughs,

I write in response to Professor Jeannie Suk Gersen's November 11, 2022 letter (Dkt. 691) requesting that the Court unseal transcripts of the sidebars in the 2018 bench trial in the above-referenced matter, and to request that the sidebars remain sealed.

Professor Gersen's letter requests that the sidebars be unsealed, "assuming the sidebars do not contain information that is properly designated as confidential." Nov. 11, 2022 Ltr. The sidebars do, however, contain confidential information, including information designated by both Harvard and SFFA under the Protective Order entered in this case (Dkt. 53) and never made public, as well as other personal and confidential information that should remain sealed. Examples of the type of information contained in sidebars include without limitation the following:

- Sidebars on trial days 6, 7, and 9 contain confidential personal information. Corrected Tr. of Bench Trial – Day 6, at 6:15-8:5; Corrected Tr. of Bench Trial – Day 7 at 6:10-12:14; and Corrected Tr. of Bench Trial – Day 9 at 6:15, 15:8-14.
- A sidebar on trial day 6 includes information regarding applications for admission to Harvard. Corrected Tr. of Bench Trial – Day 6 at 8:6-16:6.
- Sidebars on trial days 3 and 10 contain confidential information that was not admitted into evidence at trial. Corrected Tr. of Bench Trial – Day 3 at 11:21-22:19; Corrected Tr. of Bench Trial – Day 10 at 119:21-129:22.

Accordingly, Harvard respectfully requests that the portions of the trial transcripts containing sidebars remain sealed.

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Sincerely,

*/s/ Seth P. Waxman*

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cc: Jennie Suk Gersen  
Counsel of Record via ECF